

SECTION 35 - AMENDMENTS

This Ordinance may be amended by changing the boundaries of districts or by changing any other provisions thereof. Whenever the public necessity and convenience and the general welfare requires such an amendment, such a change may be proposed by the City Council on its own motion or by motion of the Planning Commission, or by petition as hereinafter set forth. Any such proposed amendment or change shall first be submitted to the Planning Commission and the Planning Commission shall, within 40 days after a hearing, recommend to the Council, approval, disapproval or modification of the proposed amendment.

1. **Application and Fee.** An application for amendment by a property owner or his authorized agent shall be filed with the City Recorder. The application shall be made on the forms provided by the City, accompanied by a site plan drawn to scale showing the property involved and adjacent land. A non-returnable fee as set forth in the City's fee schedule shall accompany each application. The applicant shall pay the costs of notification and publication required by this Ordinance.
2. **Public Hearing on an Amendment.** Before taking final action on a proposed amendment, the Planning Commission shall hold a public hearing thereon. After receipt of the report on the amendment from the Planning Commission, the Council shall hold a public hearing on the amendment.
 - A. **Notice of hearing.** Notice of time and place of the public hearing before the Planning Commission and of the purpose of the proposed amendment shall be given by the City Recorder in the following manner.
 - 1) If an amendment to the text is proposed, the notice shall be by one publication in a newspaper of general circulation in the City not less than four (4) days nor more than 10 days prior to the date of hearing. Where all property so located is under the same ownership, owners of property abutting that of the same ownership shall be notified in the same manner as provided in this section. If an amendment to the Zoning Map is proposed, the notice shall be as provided in Section 10 of this Ordinance.

(Amended by Ord. 1129, effective 10/20/93)
 - 2) Failure to send notice to a person specified in this section or failure of a person to receive the notice shall not invalidate any proceedings in connection with the proposed zone change.
 - B. **Recess of hearing.** The Planning Commission may recess a hearing in order to obtain additional information or to serve further notice upon other property owners or persons it decides may be interested in the proposed amendment. Upon recessing for this purpose the Commission shall announce the time and date when the hearing will be resumed.
 - C. **Public hearing held by council.** Notice of the hearing to be held by the Council on the proposed amendment to the Zoning Ordinance shall be given as provided in Section 35 (2A).

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3. Action by the City Council. At the conclusion of the public hearing, the Council may enact an ordinance granting the zone change or amendment, or may by motion deny the granting of the zone change or amendment. The Council shall in any event render its decision on any application within 40 days after the public hearing, provided however, that nothing shall prohibit the City Council from by motion, postponing disposition of the application to a definite time past the said 40 day period.
4. Record of Amendments. The signed copy of each amendment to the text and the map of this Ordinance shall be maintained on file in the office of the City Recorder. A record of such amendments shall be maintained in a form convenient for the use of the public.
5. Resubmittal. In a case where a petition for an amendment is denied by the City Council, said petition shall not be eligible for resubmittal for one (1) year from the date of said denial, unless such denial was specifically stated to be without prejudice. A new petition affecting the same property must be, in the opinion of the Planning Commission and the City Council, substantially different from the petition denied, to be eligible for consideration within one (1) year from the said date of denial, unless the first denial was denied without prejudice, or the Planning Commission finds that conditions have changed to the extent that further consideration is warranted.
6. Resolution of Intent to Re-Zone. If, from the facts presented and findings and the report and recommendations of the Planning Commission, as required in Section 35 hereof, the City Council determines that the public health, safety, welfare and convenience will be best served by a proposed change of zone, the Council may indicate its general approval in principal of the proposed re-zoning by the adoption of a "resolution of intent to re-zone" the area involved. This resolution shall include any conditions, stipulations or limitations, which the Council may feel necessary to require in the public interest as a pre-requisite to final action, including those provisions which the Council may feel necessary to prevent speculative holdings of the property after re-zoning. The fulfillment of all conditions, stipulations and limitations contained in said resolution, on the part of the applicant, shall make such resolution a binding commitment on the City Council. Such a resolution shall not be used to justify spot zoning, to create unauthorized zoning categories by excluding uses otherwise permitted in the proposed zoning or by imposing setback, area or coverage restrictions not specified in the Ordinance for the zoning classification, or as a substitute for a variance. Upon completion of compliance action by the applicant, the Council shall by ordinance effect such re-zoning. The failure of the applicant to meet any or all conditions, stipulations, or limitations contained in the resolution, including the time limit placed in the resolution, shall render the resolution of intent to re-zone null and void, unless an extension is granted by the Council upon recommendation of the Planning Commission.
7. Nothing contained in Section 35 or in any other section of this Ordinance shall be construed as being applicable to the enactment of amendment to this Ordinance so long as they apply to procedural matters, including but not limited to, the matter of appeal rights, limitation for appeals, filing fees relating to land use actions, as well as any and all matters deemed by the Tillamook City Council to pertain to procedure.